

1 UNITED STATES OF AMERICA
2 UNITED STATES DISTRICT COURT
3 CENTRAL DISTRICT OF CALIFORNIA

4 ARTHUR NAKAZATO, U.S. MAGISTRATE JUDGE
5 UNITED STATES DISTRICT JUDGE PRESIDING

6 UNITED STATES OF AMERICA,)
7 PLAINTIFF,)
8 VS.)
9 EDWARD R. SHOWALTER,) SA-06-CR-00129-AG
10 DEFENDANT.) APPEAL NO. 08-50109
11 _____)

12 REPORTER'S TRANSCRIPT OF PROCEEDINGS ON APPEAL

13 AUGUST 7, 2006

14 SANTA ANA, CALIFORNIA
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22 HOPE GOLDSMITH, CSR 12794
23 HOPE_GOLDSMITH@HOTMAIL.COM
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1 APPEARANCE OF COUNSEL:

2 ON BEHALF OF THE PLAINTIFF UNITED STATES OF AMERICA:

3 IVY WANG, AUSA

4 ON BEHALF OF THE DEFENDANT EDWARD RICHARD SHOWALTER:

5 EZEKIEL E. CORTEZ, ESQ.
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1 SAN DIEGO, CALIFORNIA, AUGUST 7, 2006

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3 (COURT IN SESSION AT 8:30 A.M.)
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5 THE COURT: ALL RIGHT. GO AHEAD AND START
6 THE CALENDAR.

7 THE CLERK: ALL RIGHT. CASE NUMBER
8 SACR-00129, UNITED STATES OF AMERICA V. EDWARD SHOWALTER.

9 MS. WANG: GOOD MORNING, YOUR HONOR. IVY
10 WANG ON BEHALF OF THE UNITED STATES.

11 THE COURT: ALL RIGHT. GOOD MORNING,
12 MS. WANG.

13 MR. CORTEZ: GOOD MORNING, YOUR HONOR.
14 EZEKIEL CORTEZ MAKING A GENERAL APPEARANCE FOR
15 MR. SHOWALTER.

16 THE COURT: ALL RIGHT. GOOD MORNING,
17 MR. CORTEZ.

18 ALL RIGHT. FIRST OF ALL, LET'S SEE, WILL THE
19 DEFENDANT STATE HIS NAME, PLEASE.

20 THE DEFENDANT: EDWARD SHOWALTER, JR.

21 THE COURT: ALL RIGHT. AND, SIR, I HAVE A
22 WAIVER OF INDICTMENT. I'LL HOLD IT UP FOR YOU TO SEE; AND
23 DO YOU SEE THE INDICTMENT OF WAIVER?

24 THE DEFENDANT: YES, SIR.

25 THE COURT: ALL RIGHT. AND DID YOU

1 UNDERSTAND BY SIGNING THE WAIVER THAT YOU CONSENT TO BE
2 PROSECUTED BY WAY OF AN INFORMATION INSTEAD OF AN
3 INDICTMENT?

4 THE DEFENDANT: YES, SIR.

5 THE COURT: OKAY. AND, IN FACT, IS THAT YOUR
6 SIGNATURE ON THE WAIVER?

7 THE DEFENDANT: YES, SIR.

8 THE COURT: VERY WELL. AND HAVE YOU RECEIVED
9 A COPY OF THE INFORMATION?

10 THE DEFENDANT: YES, SIR.

11 THE COURT: AND HAVE YOU READ IT?

12 THE DEFENDANT: YES, SIR.

13 THE COURT: AND YOU UNDERSTAND WHAT YOU'RE
14 BEING ACCUSED OF?

15 THE DEFENDANT: YES, SIR.

16 THE COURT: VERY WELL. IS THERE ANY NEED FOR
17 THE COURT TO HAVE THE INFORMATION READ AND EXPLAINED TO YOU?

18 THE DEFENDANT: NO, SIR.

19 THE COURT: VERY WELL. AND HAVE COUNSEL HAD
20 A CHANCE TO READ THE PRETRIAL SERVICES REPORT?

21 MS. WANG: YES, YOUR HONOR.

22 MR. CORTEZ: WE HAVE.

23 THE COURT: ALL RIGHT. AND WHAT'S THE
24 GOVERNMENT'S POSITION THIS MORNING?

25 MS. WANG: THE GOVERNMENT AGREES WITH THE

1 PRETRIAL RECOMMENDATION OF \$25,000 IN FINES. (INAUDIBLE)

2 WE WOULD ONLY REQUEST THAT HE -- WE WOULD
3 REQUEST A FORTHWITH RELEASE THAT HE SECURE THE (INAUDIBLE)
4 SIGNATURE, AND ALSO WE DON'T BELIEVE THE TRAVEL RESTRICTION
5 IS NECESSARY.

6 HIS ATTORNEY, AS I UNDERSTAND, IS IN THE
7 SOUTHERN DISTRICT OF CALIFORNIA, AND (INAUDIBLE).

8 MR. CORTEZ: IF I MAY EXPLAIN, YOUR HONOR.
9 MR. SHOWALTER WORKS WITH A COMPANY -- CEMENT COMPANY THAT
10 HAS A CONTRACT WITH LOUISIANA, MISSISSIPPI, TEXAS, AND OTHER
11 STATES COMPANY, ESPECIALLY WITH LOUISIANA AND MISSISSIPPI,
12 BECAUSE OF THE DESTRUCTION THE CONSTRUCTION THAT HAS THE
13 PEOPLE RIGHT NOW, HIS COMPANY HAS A LOT OF CONTRACTS.

14 THE GOVERNMENT HAS BEEN AWARE OF THIS. WE
15 HAVE BEEN IN DISCUSSIONS IN THIS CASE SINCE NOVEMBER OF LAST
16 YEAR. AND SO HENCE THE AGREEMENT ON BAIL, THE TRAVEL IS FOR
17 MR. SHOWALTER'S WORK. THIS IS NO VACATION OR ANY TYPE OF
18 FUN, A PERSONAL THING. THIS IS FOR WORK.

19 I SPOKE WITH HIS EMPLOYER. AND, IN FACT, HIS
20 EMPLOYER (UNINTELLIGIBLE) WILL BE THE PROPOSED SECOND SURETY
21 TO SIGN THE BAIL.

22 THE COURT: ALL RIGHT. VERY WELL. I'LL GO
23 AHEAD AND SET BAIL BY ORDER AND APPEARANCE BOND IN THE
24 AMOUNT OF \$25,000. THAT'LL NEED TO BE AN AFFIDAVIT OR
25 SURETY WITHOUT JUSTIFICATION THAT'S SIGNED BY ANY

1 RESPONSIBLE THIRD PARTY.

2 CONDITIONS OF RELEASE SHALL CONSIST OF
3 PRETRIAL SUPERVISION. YOU MUST SURRENDER ALL PASSPORTS TO
4 THE CLERK OF THE COURT, SIGN A DECLARATION, AND NOW APPLY
5 FOR THE ISSUANCE OF A PASSPORT OR AN APPENDENCE IN THE CASE.

6 I WILL RESTRICT HIS TRAVEL TO THE CONTINENTAL
7 UNITED STATES AND FOR BUSINESS-RELATED TRAVEL ONLY.

8 OTHER THAN THAT HE SHALL NOT ENTER THE
9 PREMISE OF ANY AIRPORT, SEAPORT, RAILROAD, OR BUS TERMINAL
10 PERMITTING EXIT FROM THE CONTINENTAL UNITED STATES OR AIR IS
11 RESTRICTED TRAVEL WITHOUT COURT PERMISSION.

12 HE MUST RESIDE IN A RESIDENCE APPROVED BY
13 PRETRIAL SERVICES AND NOT RELOCATE WITHOUT PRETRIAL
14 SERVICE'S PRIOR PERMISSION.

15 AND HE MUST MAINTAIN OR ACTIVELY SEEK
16 EMPLOYMENT AND PROVIDE PROOF TO PRETRIAL SERVICES. AND THAT
17 SHOULD DO IT.

18 SIR, DO YOU UNDERSTAND THE CONDITIONS OF YOUR
19 RELEASE THAT I'VE IMPOSED ON YOU?

20 THE DEFENDANT: YES, SIR.

21 THE COURT: AND DO YOU UNDERSTAND IF YOU FAIL
22 TO ABIDE BY THEM THAT COULD SUBJECT YOU TO FURTHER CRIMINAL
23 PROSECUTION AND PUNISHMENT?

24 THE DEFENDANT: YES, SIR.

25 THE COURT: AND YOU GIVE ME YOUR WORK THAT

1 YOU'RE GOING TO ABIDE BY ALL THE CONDITIONS?

2 THE DEFENDANT: YES, YOUR HONOR. I WILL.

3 THE COURT: VERY WELL.

4 THE CLERK: AND, YOUR HONOR, WHEN WOULD YOU
5 REQUIRE THE THIRD-PARTY AFFIDAVIT TO BE SUBMITTED?

6 MR. CORTEZ: CAN WE HAVE TWO DAYS, YOUR
7 HONOR?

8 THE COURT: YOU CAN HAVE THREE DAYS.

9 MR. CORTEZ: ALL RIGHT.

10 THE CLERK: IS EDWARD SHOWALTER YOUR TRUE
11 NAME?

12 THE DEFENDANT: EDWARD RICHARD SHOWALTER, JR.

13 THE CLERK: DID YOU HEAR AND UNDERSTAND THE
14 STATEMENTS OF THIS COURT PERTAINING TO YOUR RIGHTS AND THE
15 APPOINTMENT OF COUNSEL?

16 THE DEFENDANT: YES, MA'AM, I DID.

17 THE CLERK: DID YOU SEE AND SIGN THE
18 STATEMENT (INAUDIBLE).

19 THE DEFENDANT: YES, MA'AM, I DID.

20 THE CLERK: DID YOU RECEIVE A COPY OF THE
21 INFORMATION?

22 THE DEFENDANT: YES, MA'AM, I DID.

23 THE CLERK: DO YOU WANT THE INFORMATION READ
24 TO YOU RIGHT NOW?

25 THE DEFENDANT: NO, MA'AM.

1 THE CLERK: HOW DO YOU PLEAD TO THE CHARGES
2 CONTAINED IN THE INFORMATION, GUILTY OR NOT GUILTY?

3 MR. CORTEZ: HE PLEADS NOT GUILTY FOR TODAY.

4 THE DEFENDANT: NOT GUILTY FOR TODAY.

5 THE CLERK: THIS CASE IS ASSIGNED TO
6 JUDGE ANDREW J. GUILFORD FOR TRIAL IN YOUR PROCEEDINGS.

7 TRIAL WILL BE SET FOR OCTOBER 3RD, 2006 AT
8 8:30 A.M.

9 A STATUS CONFERENCE IS SET FOR SEPTEMBER
10 25TH, 2006 AT 2:00 O'CLOCK P.M.; AND COUNSEL SHOULD CONTACT
11 JUDGE GUILFORD'S CLERK TO SCHEDULE A CHANGE OF PLEA HEARING.

12 THE COURT: VERY WELL. ANYTHING FURTHER?

13 MR. CORTEZ: NO, YOUR HONOR.

14 MS. WANG: NO, YOUR HONOR.

15 THE COURT: ALL RIGHT. THANK YOU.

16 THE DEFENDANT: THANK YOU.

17 MR. CORTEZ: THANK YOU.

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19 (THE PROCEEDINGS WERE CONCLUDED.)
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CERTIFICATE OF REPORTER

COUNTY OF SAN DIEGO)
) SS.
STATE OF CALIFORNIA)

I, HOPE IRENE GOLDSMITH, CERTIFIED SHORTHAND

REPORTER, DO HEREBY CERTIFY THAT I TRANSCRIBED FROM

AUDIOCASSETTE TAPE, THE FOREGOING PROCEEDINGS; AND I DO

FURTHER CERTIFY THAT THIS IS A TRUE AND CORRECT

TRANSCRIPTION FROM SAID AUDIOCASSETTE TAPE.

HOPE GOLDSMITH

08/21/2008

HOPE GOLDSMITH, CSR 12794

DATE:

E/F 08-21-2008